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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/046,226

01/16/2002

Xi Shen

8895

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09/17/2009

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EXAMINER

BOSWELL, BETH V

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte XI SHEN, DAWN BURNETT, NAGAR VISHWANATH, and
YUNG-SEOP LEE

Appeal 2009-004946
Application 10/046,226
Technology Center 3600

Mailed: September 17, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 12, 2008. A Docketing Notice was mailed and Appeal No. 2009-004946 was assigned on March 3, 2009. A review of the application has revealed that the application was not ready for docketing as an appeal. Accordingly, the application is herewith being

remanded to the Examiner. The matter requiring attention is identified below.

Claims 16-21 of the instant application are set forth as method claims that may not fall within one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008) (en banc). Thus, there is a question as to whether claims 16-21 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 16-21 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

mls

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